

By: Perry

S.B. No. 2079

A BILL TO BE ENTITLED

AN ACT

relating to procedures for tax auditing and determining amounts of overpayments of gas production taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.001, Tax Code, is amended by adding Subdivision (7-a) to read as follows:

(7-a) "Selected marketing cost sampling" means the use of a sample of marketing transactions to determine the percentage of gross receipts attributable to marketing costs.

SECTION 2. Subchapter E, Chapter 201, Tax Code, is amended by adding Section 201.207 to read as follows:

Sec. 201.207. DETERMINATION OF OVERPAID AMOUNTS. (a) This section applies to the tax paid under this chapter by a person who filed a report under Section 201.203 or 201.2035 and remitted tax in error to this state.

(b) A person to whom this section applies may compute the amount of overpayment by use of selected marketing cost sampling. The sampling method used must comply with generally accepted sampling methods described by Statement on Auditing Standards No. 39, "Audit Sampling," and be approved by the comptroller.

(c) The person may obtain reimbursement for amounts determined to have been overpaid by taking a credit on one or more reports filed under Section 201.203 or 201.2035 or by filing a claim for refund with the comptroller within the limitation period

1 specified by Subchapter D, Chapter 111.

2 (d) The person must record the method by which the
3 computation is performed and must make available on request by the
4 comptroller the records on which the computation is based.

5 (e) The comptroller may adopt rules specifying additional
6 procedures that must be followed in connection with claiming a
7 credit under this section.

8 SECTION 3. Subchapter G, Chapter 201, Tax Code, is amended
9 by adding Section 201.3021 to read as follows:

10 Sec. 201.3021. MANAGED AUDITS. (a) In this section,
11 "managed audit" means a review and analysis of invoices, checks,
12 accounting records, or other documents or information conducted by
13 a taxpayer to determine a taxpayer's liability for tax under this
14 chapter.

15 (b) The comptroller may, in a written agreement, authorize a
16 taxpayer to conduct a managed audit under this section. The
17 agreement must:

18 (1) be signed by an authorized representative of the
19 comptroller and the taxpayer; and

20 (2) specify the period to be audited and the procedure
21 to be followed.

22 (c) The decision to authorize or not authorize a managed
23 audit rests solely with the comptroller.

24 (d) The comptroller may examine records and perform reviews
25 that the comptroller determines are necessary before the audit is
26 finalized to verify the results of the audit.

27 (e) Unless the audit or information reviewed by the

1 comptroller under Subsection (d) discloses fraud or wilful evasion
2 of the tax, the comptroller may not assess a penalty and may waive
3 all or part of the interest that would otherwise accrue on any
4 amount identified to be due in a managed audit. This subsection does
5 not apply to any amount collected by the taxpayer that was a tax or
6 represented to be a tax but that was not remitted to this state.

7 (f) Except as provided by Section 111.104(f), the taxpayer
8 is entitled to a refund of any tax overpayment disclosed by a
9 managed audit under this section.

10 (g) The comptroller may authorize the use of selected
11 marketing cost sampling in a managed audit under this section if:

12 (1) the comptroller approves the selection of
13 marketing transactions to be used in the sample; and

14 (2) the sampling method complies with generally
15 accepted sampling methods described by Statement on Auditing
16 Standards No. 39, "Audit Sampling."

17 SECTION 4. The change in law made by this Act does not
18 affect tax liability accruing before the effective date of this
19 Act. That liability continues in effect as if this Act had not been
20 enacted, and the former law is continued in effect for the
21 collection of taxes due and for civil and criminal enforcement of
22 the liability for those taxes.

23 SECTION 5. This Act takes effect September 1, 2019.